



Arlington Zoning Board of Appeals

Date: Tuesday, October 18, 2022
Time: 7:30 PM
Location: Conducted by remote participation
Additional Details:

Agenda Items

Administrative Items

1. **Remote Participation Details**

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency, the Arlington Zoning Board of Appeals meetings shall be physically closed to the public to avoid group congregation until further notice. The meeting shall instead be held virtually using Zoom.

Please read Governor Baker's Executive Order Suspending Certain Provision of Open Meeting Law for more information regarding virtual public hearings and meetings: <https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download>

You are invited to a Zoom meeting.
When: Oct 18, 2022 07:30 PM Eastern Time (US and Canada)

Register in advance for this meeting:
<https://town-arlington-ma-us.zoom.us/meeting/register/tZcpf-ihqjgoG92M9LQsQAgiTmglaNc0IMJ8>

After registering, you will receive a confirmation email containing information about joining the meeting.

Meeting ID 834 8194 3219

Dial by your location
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 646 931 3860 US
+1 301 715 8592 US (Washington DC)

2. **Members Vote: Approval of Decision for 70-72 Oxford Street**
3. **Discussion of Hybrid Meeting Decision Points**

Comprehensive Permits

4. Docket # 3719: 1025 Massachusetts Avenue

The Zoning Board of Appeals hereby gives notice that it will hold a Public Hearing on Tuesday, October 18, 2022, beginning at 7:30 P.M. Said hearing will be conducted remotely via "Zoom" to consider the application of 1025 Mass Ave, LLC for the approval of a Comprehensive Permit under M.G.L. Chapter 408, Sections 20-23 and the regulations promulgated thereunder, 760 CMR 56.00 et seq, for the construction of a structure located at 1021 - 1025 Mass Ave Arlington Ma. Such property is identified as Assessor's Parcel ID. Nos. 055.0-0002-0020.0 055.00002-0019.

We strongly encourage public comment to be submitted in writing to the Board. We also note that this hearing is only one in a series of hearings going forward with respect to this application. The application, plans, request for waivers, and related submissions will be available on the Town of Arlington website, Zoning Board of Appeals.

Please visit the Town of Arlington Zoning Board of Appeals website for "Zoom" invitation ID, and additional material as it becomes available. This information will be posted 48 hours prior to the hearing.

5. Docket # 3719: 1025 Massachusetts Avenue: Public Correspondence

Meeting Adjourn



Town of Arlington, Massachusetts

Docket # 3719: 1025 Massachusetts Avenue

Summary:

The Zoning Board of Appeals hereby gives notice that it will hold a Public Hearing on Tuesday, October 18, 2022, beginning at 7:30 P.M. Said hearing will be conducted remotely via "Zoom" to consider the application of 1025 Mass Ave, LLC for the approval of a Comprehensive Permit under M.G.L. Chapter 408, Sections 20-23 and the regulations promulgated thereunder, 760 CMR 56.00 et seq, for the construction of a structure located at 1021 - 1025 Mass Ave Arlington Ma. Such property is identified as Assessor's Parcel ID. Nos. 055.0-0002-0020.0 055.00002-0019.

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ATTACHMENTS:

Type	File Name	Description
□ Memorandum	20221013_GLAM_Analysis.pdf	DPCD GLAM Analysis
□ Reference Material	Waiver_Table.pdf	Waiver Table



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Christian Klein, Chair, Zoning Board of Appeals
Doug Heim, Town Counsel
Claire Ricker, Director, Department of Planning and Community Development

From: Kelly Lynema, Assistant Director

Date: 10/13/2022

RE: GLAM Projections

In light of the 9/21/2022 filing of a Comprehensive Permit Application by 1025 Mass Ave, LLC, the Zoning Board of Appeals (ZBA) has asked for an informal assessment of Arlington's progress toward achieving a 1.5% General Land Area Minimum (GLAM). Last year, DPCD worked with Arlington's GIS Administrator to review DHCD guidance on calculating the GLAM and identified current and projected percentages. This memo, largely based on that analysis, provides an overview of the background of 40B and GLAM calculations in Arlington, provides an estimate of the Town's current GLAM given recent additions to the Town's Subsidized Housing Inventory (SHI), and a recommendation for how the ZBA may wish to respond to this current Comprehensive Permit Application.

Background

In 1969, the state legislature adopted the Comprehensive Permit Statute under MGL Chapter 40B Sections 20-23 to "address the shortage of low- and moderate-income housing in Massachusetts and to reduce regulatory barriers that impeded the development of such housing." Subsequently, the Department of Housing and Community Development (DHCD) issued 760 CMR 56.00, which "set forth comprehensive standards and procedures" governing Comprehensive Permits, addressed the Subsidized Housing Inventory (SHI), and advanced the statutory purposes of MGL Chapter 40B Sections 20-23 "by clarifying the procedures of the expedited review process, and by otherwise addressing recurring questions of interpretation."

Section 56.03(3) of 760 CMR defines the methods by which a community can demonstrate progress toward local affordable housing goals. If one or more of the criteria described below are met, a municipality's Board of Appeals may invoke safe harbor, which thereby allows its board to deny a comprehensive permit or grant a permit with conditions. Reaching safe harbor precludes the Housing Appeals Committee (HAC) from overturning or modifying a board decision. The board may invoke safe harbor if:

1. The municipality can demonstrate that it has achieved one or more of the statutory minima:
 - a. 10% of all housing units are deed-restricted for occupancy by households earning an income at or below 80% of Area Median Income (AMI).

- b. 1.5% of the municipality's land area zoned for residential, commercial, or industrial use is dedicated for use as housing for households earning a low to moderate income.
2. The municipality has an approved Housing Production Plan certified by DHCD demonstrating its compliance with the goals of that plan by increasing the supply of SHI eligible housing units by at least 0.5% of its total units in a calendar year¹.
3. The municipality can demonstrate recent progress toward the statutory minima by having created affordable housing comprising at least 2% of its total housing units in the prior 12 months.

SHI eligible housing units may be counted toward these criteria if they have been inventoried by DHCD, or if they are established according to 760C CMR 56.03(3)(a) as occupied, available for occupancy, or under permit as of the date when the ZBA receives a Comprehensive Permit Application. However, if more than one year passes between the date when the ZBA issues a Comprehensive Permit or zoning approval for a 40B project and the date when a building permit is issued, the units fall off the SHI and they do not contribute toward the minima until a building permit is issued. Additionally, if more than 18 months pass between the date of the building permit issuance and the issuance of a certificate of occupancy, the units do not contribute to the SHI until the date the certificate of occupancy is issued.

At present Arlington's SHI represents 6.54% of total housing units, well below the 10% statutory minimum. The 2015 Master Plan suggested that the Town was potentially closer to achieving the 1.5% GLAM than the 10% statutory minimum and recommended that the Town work to determine its status under the Chapter 40B 1.5% land rule. The first recommendation in the Housing and Residential Development section of the Master Plan is for Arlington to plan for housing with a Housing Production Plan.

In September 2016, Arlington Land Realty (ALR) submitted a comprehensive permit application to build a 219-unit project on a parcel of land off Dorothy Road. In October the ZBA invoked safe harbor—stating that it believed the Town had been protected on the grounds that the Town had reached the 1.5% GLAM. After ALR notified DHCD of its objection to the ZBA's position, DHCD issued a determination that the Town had not reached the 1.5% GLAM. The ZBA appealed, stating that based on internal calculations the Town had achieved a GLAM of 1.53%.

In subsequent hearings on the matter, GIS experts from the Town and ALR described how they arrived at their respective GLAM calculations. In 2019, after hearing testimony on the individual calculations, the HAC concluded that the ZBA had not established the Town had achieved the 1.5% statutory minimum and denied its claim that the Town was entitled to safe harbor. The table below outlines these calculations, including the figures factoring into the HAC's decision.

¹ Meeting this requirement provides safe harbor only temporarily. If the municipality can demonstrate production of SHI eligible housing units at a rate of 0.5%, it can decline comprehensive permits for 40B developments for up to one year; if a rate of 1% can be demonstrated, it can decline them for up to two years. This was accomplished in 2021 after the ZBA issued a Comprehensive Permit for 1165R Massachusetts Avenue, which allowed the Town to certify the 2016 HPP from September 17, 2021 through September 16, 2022.

2019 HOUSING APPEALS COMMITTEE DECISION			
	Town (ZBA)	Arlington Land Realty	Housing Appeals Committee
Numerator			
SHI eligible land area	30.14	30.14	30.14
Denominator			
Total Municipal Area		3509.86	3509.87
Water Body Area (acres)		-224.95	-224.95
Right of Way Area (acres)		-726.28	-726.28
Total Zoned Included Land	2556.59	2558.63	2558.63
Exclusions ²	-588.88 ³	-361.77	-361.77
Total Eligible Land Area	1967.71	2196.86	2196.86
GLAM			
GLAM	1.53%	1.37%	1.37%

An Estimate of Arlington's Current GLAM

Since the HAC's 2019 decision, several small-scale developments that include units of deed-restricted affordable housing, the mid-sized Downing Square/Broadway Initiative, and the Comprehensive Permit Application for 1165R Massachusetts Avenue have been approved and are under construction (see Appendix A). DPCD has been asked for an assessment of the degree to which those developments would contribute to the GLAM.

In the time since Arlington's GLAM was last calculated, DHCD issued new guidance for calculating the GLAM⁴. This guidance varies from and supersedes the approach applied in the 2019 HAC decision in that each of the guideline's instructions builds on the preceding instruction, thereby reducing the likelihood of a land area being double counted (e.g., double counting the path for the Minuteman Bikeway as both right of way and open space). As such, the denominator (Total Land Area) is larger than was identified in the 2019 HAC analysis. The guidance also provides specific definitions for what areas of a development parcel may be counted as "directly associated" with that development and what does not contribute toward the GLAM. Land area available for parking, circulation, and open space is directly associated, while areas such as wooded hills and wetlands do not contribute toward the GLAM. As a result, some figures in the calculation provided below differ slightly from those provided to the HAC in 2019⁵.

Using the DHCD GLAM guidelines, in 2021 staff worked with Arlington's GIS administrator to determine the Town's current and projected GLAM as shown in the following table.

² The following uses are excluded from the calculation: land owned by the state or federal government; land where residential, commercial, and industrial development has been prohibited by order of the Department of Environmental Protection; water bodies; and flood plain, conservation, or open space zone where residential, commercial, or industrial uses are completely prohibited.

³ HAC determined that the ZBA had excluded acreage associated with Arlington's water bodies twice in its calculation.

⁴ Guidelines for Calculating General Land Area Minimum: <https://www.mass.gov/service-details/guidelines-for-calculating-general-land-area-minimum>

⁵ The 2019 HAC decision describes how ALR's expert witness disputed the Town's numerator of 30.14, suggesting that a Board had claimed as SHI eligible a property of .189 acres that was not listed on the SHI.

2022 GLAM ESTIMATE		
	1: 2019 Adjusted GLAM (per DHCD Guidelines)	2: 2022 Estimated GLAM based on current SHI
Numerator		
Group homes ⁶ (acres)	1.11	1.11
SHI eligible land area (acres)	28.84	30.69
<i>Total</i>	29.95	31.8
Denominator		
Total Area (acres) ^{7, 8}	2206.5	2206.5
GLAM		
<i>GLAM</i>	1.36%	1.44%

Staff Recommendations

Based on these figures, staff recommend that the ZBA does not attempt to invoke safe harbor in response to new Comprehensive Permit Applications, or at a minimum, postpone any decision to invoke safe harbor until after such time when any developments that include affordable housing have been issued building permits and receive a certificate of occupancy.

Given that the Fair Housing Action Plan and 2022 Housing Production Plan (HPP) clearly state goals of increasing the Town's supply of affordable housing, including housing for families and seniors, the ZBA may wish to consider endorsing a voluntary goal of meeting the 10% statutory minimum instead of focusing exclusively on achieving the 1.5% GLAM. The 2022 HPP has been approved by DHCD; with an approved HPP, the Town can apply to have the HPP certified by DHCD if Arlington adds affordable housing at an annual rate of 0.5% or 1% of its year-round housing stock (99 or 199 units). This was recently accomplished last year after the ZBA's approval of the Comprehensive Permit Application for 1165R Massachusetts Avenue, which resulted in the certification of the 2016 HPP and granted the ZBA one year of temporary safe harbor, which ended in September of this year. If the current HPP is able to be certified in the future, the ZBA would then have the option to decline to issue comprehensive permits for Chapter 40B developments without fear of being overturned by the HAC for a period of one or two years, respectively. This would be in coordination with the Town's efforts to increase the supply of affordable housing outside of 40B applications, such as through implementation of the Fair Housing Action Plan, the 2022 HPP, and the work of the Affordable Housing Trust Fund Board of Trustees.

⁶ Estimated using DHCD's 2016 data. The Town receives data on the number of group homes as part of DHCD's annual SHI information, however their location, and therefore land area, is confidential. DHCD shares group home land area only when municipalities elect to calculate their GLAM in response to a Comprehensive Permit Application.

⁷ Non-zoning restrictions such as conservation restrictions, easements, or deed restrictions do not qualify as eligible rationale for exclusion.

⁸ Private Right-of-ways were not identified in the GIS parcel data (see step 2.8) for this preliminary and estimated calculation and should be included in the final calculation. In the GIS parcel data, all ROWs are combined and the official road list in Engineering should be used to separate public from private and paper ROW in GIS. The Town's GIS administrator used the SAMIS Pavement Management data and created buffers for each Private, Paper, and Unknown road class and used the stated width to create the buffer.

Appendix A | Affordable Housing Developments Added to the SHI Since 2019

The developments identified below were included in calculations of the Town's estimated GLAM. The unit at 483 Summer Street was added to the Town's SHI in 2020 but was not included in the 2019 HAC decision.

Properties added to the SHI since the last calculation of the GLAM

483 Summer St	Private Developer	Completed, one of nine units affordable
19R Park Ave	Housing Corp. of Arlington	Under construction, 100% affordable
117 Broadway	Housing Corp. of Arlington	Under construction, 100% affordable
1165R Mass Ave	Private Developer	Under construction, 40B project, 25% affordable

Pursuant to 760 CMR 56.05(2)(h), 1025 Mass Ave, LLC (hereinafter referred to as the "Applicant"), submits the following list of waivers, so-called, to "local requirements and regulations," including without limitation the Town of Arlington Zoning Bylaw, as amended, certain Town By-laws such as the Arlington Wetlands Protection Bylaw (Title V, Article 8 - "Wetlands Bylaw"), Article 16-Tree Protection and Preservation Bylaw, and other local regulations and requirements as defined in M.G.L. c.408, §56.02, including all local rules, ordinances, codes and regulations that are more restrictive than state requirements.

By-Law Regulation	Requirement	Proposed	Waiver
Zoning By-Law Article 5, Section 5.5.3	Multifamily/ Apartment use is not allowed as of right or by special permit.	Multi-Family use	Waiver requested. The property is located in the B1 Zone.
Zoning By-law Article 5, Section 5.5.2	The By-law requires a Front Yard Setback of 20 feet	The Applicant proposes a Front yard setback of 11.8 feet	Waiver requested, see Footnote 1
Zoning By-law Article 5, Section 5.5.2	The By-law requires a Side Yard Setback of 10 feet	The Applicant proposes a Side yard setback of 8.7 feet	Waiver requested, see Footnote 1
Zoning By-law Article 5, Section 5.5.2	The By-law requires a maximum height of 3 stories or 35 feet	The Applicant proposes a 5-story building with a proposed height of 61'8"	Waiver requested, see Footnote 1
Zoning By-law Article 5, Section 5.5.2	The By-law allows for a maximum FAR of 0.75	The Applicant proposes a FAR of 2	Waiver requested, see Footnote 1
Zoning By-law Article 6, Section 6.1.4	The By-law requires 1.15 spaces per 1-bedroom unit, 1.5 spaces per 2-bedroom unit, and 2 spaces per 3 or more bedroom unit	The Applicant proposes 1 parking space per unit regardless of number of bedrooms.	Waiver requested, see Footnote 2
Bicycle Parking Design Guidelines	The long-term bicycle storage design guidelines do not permit hanging bicycle storage.	The Applicant proposes 49 bicycle storage units in the basement & 26 hanging bicycle racks in the garage	Waiver requested, see Footnote 2
Town By-law, Title V, Article 16, Sections 2 and 4 Tree Protection and Preservation	These sections prohibit removal of "Protected Trees" unless removal is authorized through the approval of a Tree Plan. Construction and demolition require the approval of a Tree Plan prior to or concurrent	The Applicant seeks to remove trees the majority of which are non-native species in order to construct the building and complete the riverfront restoration. The Applicant seeks	Waiver requested. Absent the removal of the trees, the project cannot be constructed. The payment to the tree fund effects the financial viability of the project, as significant dollars are

	with application for a building permit. Protected Trees require a payment to a Tree Fund.	that a Tree Plan approval be included in the comprehensive permit and a waiver of the payment to the Tree Fund.	already committed to the riverfront restoration plan on the property and along Mill Brook.
Town Bylaw Title V, Article 8 Wetlands Protection	The project is within Conservation Commission jurisdiction requiring an Order of Conditions	The Applicant seeks that the required Order of Conditions be included in the comprehensive permit	Waive requirement for an Order of Conditions to be issued by the Conservation Commission. Proposed development meets the performance standards for issuance of an Order of Conditions
Town Bylaw Title V, Article 15 Stormwater Management	The project requires a stormwater management approval	The Applicant seeks that the required stormwater management be included in the comprehensive permit	Waive requirement for a Stormwater Permit to be issued by the Town Engineer. Proposed development meets the performance standards for issuance of a Stormwater Permit
Arlington Historical Commission	1021 Massachusetts Avenue is listed on the Historic Structures Inventory	The Project requires the demolition of 1021 Massachusetts Ave	Waive requirement of demolition delay or waive requirement that the Arlington Historical Commission determine that the demolition of the building would not be detrimental to the historical or architectural heritage or resources of the Town and include such determination in the comprehensive permit.
Town Bylaw Title V, Article 14 Outdoor Lighting	Up-lighting is prohibited	The Applicant seeks some up-lighting on the Project	Waiver Requested from the up-lighting prohibition

1. Absent waivers of these zoning requirements, the proposed project would be uneconomical, would not result in the limited profit provided for in the regulations and the Applicant would be unable to secure financing for the construction of the proposed project.
2. The Applicant seeks a waiver of the required number of parking spaces and the required long-term bicycle storage design guidelines as the footprint of the building could not accommodate additional parking beyond what is provided in the table



Town of Arlington, Massachusetts

Docket # 3719: 1025 Massachusetts Avenue: Public Correspondence

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	pbw_Request_for_Rescission_of_40B_Project_Eligibility_Approval.pdf	pbw Request for Rescission of 40B Project Eligibility Approval
▢ Reference Material	pbw_Testimony_for_10-18_hrg_against_40B_1201_Mass_Av.pdf	pbw Testimony for 10-18 hrg against 40B 1201 Mass Av
▢ Reference Material	T_Perkins_101622.pdf	T Perkins 101622
▢ Reference Material	A_Freeman.pdf	A Freeman
▢ Reference Material	C_Marceau_101722.pdf	C Marceau 101722
▢ Reference Material	C_Wagner.pdf	C Wagner
▢ Reference Material	J_Preston.pdf	J Preston

Re: Request to rescind MassHousing's Project Eligibility Approval for 40B Project at 1021-1025
Massachusetts
Avenue in Arlington

**27 JASON STREET
ARLINGTON, MASSACHUSETTS 02476**

TELEPHONE (781) 646-8303
[**PWORDEN@POST.HAVARD.EDU**](mailto:PWORDEN@POST.HAVARD.EDU)

October 10, 2022

Re: Arlington Project Eligibility, 40B Proposal for 2021-2025 Massachusetts Avenue

Dear Ms. Kornegay and Ms. Malcolm,

Thank you very much, Ms. Malcolm, for your courtesy responding to my letter requesting Denial of Project Eligibility for this unworthy project. (I will respond to your bullet points in a **Footnote** to this letter below.)

This letter is written to request that MassHousing's Site Approval letter be rescinded due to unacceptable procedural matters and lack of honesty. It is questionable that Arlington ZBA's Comprehensive Permit hearings can be legitimate in view of the problems of the Plan as follows:

- **In violation of legal requirements the Project has not been made known to the public.** No comment from any residents, committees or commissions was sought or provided except that of the Conservation Commission and Redevelopment Board. No Project information or request for comment was made via the *Arlington Advocate* newspaper or by Select Board Chair Diggins (while officially representing the SB) at Arlington's Town Meeting with 252 members and its large television audience. Residents have been deprived of knowledge of this Project and of the deadline for submission of comments.
- **The June 14 letter of SB Chair Diggins to you made an untruthful statement that the Project "is consistent with the goals and recommendations of the Arlington Master Plan, ... Open space and Recreation Plan, and the Mill Brook Corridor Report."** That is NOT the **case** as can be easily verified and is an outrageous statement concerning the hundreds of pages of these reports almost all of which are antithetical to the Project plan.
- **The Applicant lied in the Site Information provided by denying that the Project involved a landmark building.** There was no outreach by the developer/landowner to the Town, or to the Arlington Historical Commission or to the State authorities

overseeing designated landmark buildings about the presence of and their intention to demolish this historic building.

- **Responsible Climate parameters, laws and regulations of Arlington and Massachusetts for new construction are ignored.** The Project is not NetZero and its energy choices highly unacceptable.
- **Clear-cutting of 80 trees including a huge legacy Sycamore tree is irresponsible in view of climate change issues**

(Please forward this letter to your general Counsel, Colin M. McNiece and to Michael Busby. I am grateful to Mr. McNiece for his Municipal Comments section in his Project Eligibility Approval letter of August 19 and for his Footnote 1 therein stating the right of MassHousing to rescind the Site Approval Letter should there be failure of the Applicant regarding truthfulness or disclosure of pertinent information.)

Clearly, considering the number of landowner and developer speculators in Arlington, this kind of lax review for Arlington 40B projects opens the gates for urban renewal and gentrification on a massive scale if that is desired by Select Board Chair Diggins and the Select Board (SB). But they have provided Arlington residents with little or no information of such an astounding new faulty 40B policy. The policy would result in municipal “clearance” as happened in the West End of Boston with tragic loss of a community and its heritage. That was NOT the goal of those who initiated 40B many decades ago. Although justification is attempted by throwing around concepts of some “affordable” units those small numbers compared to large number of market rate units in 40B projects cannot come close to the loss that Arlington would experience of its many naturally affordable units if SB Chair Diggins new policy is enabled by approval by MassHousing of grossly defective applications such as that for 1021-1925 Massachusetts Avenue.

In conclusion let me suggest that if you wish to improve your oversight of this 40B project that MassHousing should check the veracity of the application materials by reading original source materials such as Arlington’s Master Plan

<https://www.arlingtonma.gov/departments/planning-community-development/master-plan>

To ensure the integrity of your procedures I recommend that this be done whether or not the 40B under consideration is a “Friendly” 40B.

Please authorize Rescission of the Project Eligibility Approval for the 40B Project at 1201-1205 Massachusetts Avenue and ensure that future 40B Project Applications comply with the law and pertinent regulations.

Yours very truly,

Patricia B. Worden, Ph.D.

Former Chair, Arlington Housing Authority

Former Chair, Arlington School Committee

Member, Housing Plan Implementation Committee

Former Charter Member, Arlington Human Rights Commission

Member, Town Meeting, pct. 8

Footnote: As mentioned above I am also responding (below) to the bullet points in your letter to me of September 9.

It should first be observed that your comments concerning my remarks that are relevant to your review of Project Eligibility are either redundant, erroneous, or (perish the thought) misleading and obfuscatory

Here are criticisms of some your bullet point in your letter to me of September 8:

- Your statement that “an assessment of consistency with Sustainable Development Principles was conducted as part of our overall Application review” says nothing of relevance to the compliance or lack thereof of Consistency with those Principles. Consistency would have been best achieved by Method 1 described in MassHousing’s “Smart Growth Scorecard” which advises redevelopment and rehabilitation in preference to new construction. The two homes that the proposed 40B demands be demolished would have been ideal for the purposes of housing Arlington Housing Authority’s low-income and very-low-income tenants requiring services such as those which the Authority provides at their exemplary residential facility in the Donnelly House also on Massachusetts Avenue which also is an ideal location for such tenants. They could have provided for a greater number of those needing affordable housing than would the 13 units of “affordable homeownership” units allegedly to be provided on the planned 40B project. The Housing Authority have been unable to buy an appropriate house—1201 and 1205 were simply kept off the market presumably to maximize the landowner/developers gain. This is tragic and is what happened in Oakland, CA where older venerable homes providing affordable rentals and services are being demolished to enable vast profits for developers of new apartment buildings and concomitant increase in homelessness (*Healing*, Thomas Insel, M.D. Penguin Press, New York, 2022, pp. 87-90). Since **Method 1** was never suggested by Arlington leaders or by MassHousing it would have been helpful if you had at least pointed out the flaws and inconsistencies described below in the 40B application pertaining to **Method 2:** (Per Smart Growth Guidelines): *Sustainable Development Principles:*

-
Municipal Support:

Item 2 Restore and Enhance the Environment The project has NO Historic Landscape Enhancement, indeed just the opposite. The Project plans the destruction of a home with Landmark Designation (1021 Massachusetts Avenue) and no Plan for prevention of possible construction-related damage and destabilization of the architecturally and historically very significant abutting First Baptist Meeting House (ca 1790)-see also below - (*Mill Brook Valley: A Historical and Architectural Survey*, 1976, Arlington Historical Commission, second printing, 1984). The project's huge building footprint and bulk would be overwhelming and entirely inappropriate in this pristine, low-rise historically important section of Massachusetts Avenue. That together with the planned removal of trees, placement of a forbidding retaining wall etc. to accommodate the plan for an unnatural water storage system will result in an unhealthy heat island.

Item 4 Conserve Resources The project is extremely wasteful. It would cause massive loss of embodied energy by destroying perfectly good large homes at 1021 and 1025 Massachusetts Avenue. The energy-intensive construction of the Project's behemoth energy-guzzling apartment building lacks NetZero attributes. It does not observe the State Stretch Code or Arlington's restrictions on energy systems to be used in new construction. The destruction of trees including a magnificent Sycamore tree in order to provide artificial underground water storage system as mentioned above is a huge Climate NO-NO.

Item 7 Increase Job Opportunities There are NO permanent jobs planned for this area. There are no known tenants for the "commercial" space.

Item 8 Foster Sustainable Businesses The Project will foster No Sustainable businesses.

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- Your confirmation of the site area is superfluous as it is well known to us. The point is that it was twenty times too large in your documentation for those involved in the site visitation which may have distorted their judgement.
- You stated that an As-Is Appraisal of the Site was conducted, including the consideration of two existing buildings and that Historical designation is outside the scope of MassHousing's authority and review. However, that is no excuse for MassHousing accepting an obvious lie in the Site Information application document from the developer/landowner denying that one of the homes they plan to demolish on the property is a landmark house listed in the Inventory. That is a red flag and your acceptance of the denial encourages wrongdoing. **Further, it is dubious that "Historical Designation is outside the Scope of MassHousing's Review." The Authority of the State listings for buildings deserving protection for historical or architectural reasons may supersede MassHousing's reluctance to protect these buildings.** It is also surprising that there is no mention of the need to protect from possible construction-related damage the abutting painstakingly restored First Baptist Meeting House mentioned above at 3-5 Brattle Street (ca 1790), the model for which was the Meeting House at Lexington Green visible in engravings of the battle there on April 19, 1775. That Meeting House is of great historical significance in that it secured a religious

rights finding from the Supreme Judicial Court of Massachusetts eliminating tax requirements for those not professing the “established” religion. Further, it is surprising that the project presents no plans to protect the recently beautifully restored abutting Highland Fire Station which is also on Arlington’s Inventory of significant buildings and the abutting historic Victorian house at 1011 Massachusetts Avenue.

- You mention that a notice to the Town soliciting comments on the proposal was sent on April 29, 2022. Comments from the Town were received on or about June 14, 2022. However, apart from SB Chair Diggins, the then-Planning Director, the Redevelopment Board, and obscure “working groups” involving the Conservation Commission, such comments to my knowledge, were not sought from any residents, commissions, committees, or Town Meeting members. The endeavor was kept from the public eye, totally lacking transparency and community involvement. The then-Planning Department quietly issued an inaccurate and distorted memorandum to Chair Diggins and the SB (a masterpiece reflecting vested interests and misinterpretation produced during the leadership of the former Planning Director who is no longer employed by the Town of Arlington). That was done during the “safe harbor” period while the rest of Town was struggling with Town Meeting issues. SB Chair Diggins then around June 14 sent you his “Comments from the Town” (apparently the only contributors from “the Town” were SB Chair Diggins and the SB). Their comments were in many cases outrageous and deceptive. For example their Conclusion “that the project in its early stages is consistent with the goals and recommendations of the Arlington Master Plan, ... Open Space and Recreation Plan, and the Mill Brook Corridor Report. That is not true. The project is antithetical to most aspects of the Open Space and Mill Brook Corridor Reports. and whereas the Master Plan did find support for mixed use – that was for a low-rise paradigm like the Capitol Theater block or Arlington Center and no resident argued for tripling the bulk/ FAR and almost doubling the height of such structures. That essentially makes structures such as the planned 40B “Residences at Mill Brook” simply large apartment buildings masquerading as “mixed use” and so allowing them to avoid the more protective dimensional regulations pertaining to apartment buildings.

From: Jessica Malcolm <JMalcolm@masshousing.com>

Sent: Thursday, September 8, 2022 7:23 PM

To: pbworden@hotmail.com <pbworden@hotmail.com>

Subject: Request to forward this message and attachment to Ms. Chrystal Kornegay and Mr. Michael Busby at MassHousing

Dr. Worden,

Thank you for your comments concerning the above-captioned 40B Proposal. Attached please find the Project Eligibility Letter for this proposal, issued on August 19, 2022.

Regarding your comments/concerns that are relevant to our review for Project Eligibility:

- An assessment of consistency with Sustainable Development Principles was conducted as part of our overall Application review;
- We can confirm that the subject area is 1.08 acres (the "Site"), of which .65 acres are buildable. See PEL pgs. 1 and 5;
- An As-Is Appraisal of the Site was conducted, including the consideration of two existing buildings. Historical designation is outside the scope of MassHousing's authority and review;
- All Application materials and associated documents are considered public information and are available through MassHousing or the Town. For materials from MassHousing, requests may be sent to Angela Chan, Special Counsel, Information Officer, at achan@masshousing.com;
- A notice to the Town soliciting comments on the proposal was sent on April 29, 2022. Comments from the Town were received on or about June 14, 2022;
- We are happy to provide any additional information to local boards upon their request;
- A Safe Harbor designation allows Zoning Boards of Appeals to deny Applications for Comprehensive Permits but does not preclude Subsidizing Agencies from conducting a review of Project Eligibility.

If you believe there were misrepresentations made to MassHousing that would impact our determination pursuant to 760 CMR 56.04(4), please send them to my attention. We encourage you to continue to share your concerns with the Town and remain engaged throughout the Comprehensive Permit process.

Please feel free to contact me directly if you have any additional questions.

Thank you,

Jessica Malcolm

One Beacon Street, Boston, MA 02108

[Twitter](#) | [Facebook](#) | [LinkedIn](#) | [Newsletter](#)

Jessica L. Malcolm

Manager

Planning and Programs

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From: Patricia Worden <pbworden@hotmail.com>

Sent: Wednesday, September 7, 2022 11:53 AM

To: HO Customer Service <HOCustomerService@masshousing.com>

Subject: Request to forward this message and attachment to Ms. Chrystal Kornegay and Mr. Michael Busby at MassHousing

Request to deny project/site approval for 40B at 1021-1025 Mass. Av.

PW

Patricia Worden

☐
☐
☐
☐

To:

- Lenard Diggins;
- DMahon@town.arlington.ma.us;
- JHurd@town.arlington.ma.us;
- EHelmuth@town.arlington.ma.us;
- SDeCoursey@town.arlington.ma.us;
- Sandy Pooler;
- cricker@town.arlington.ma.us;
- Elaine Crowder;
- robinsj@rcn.com;
- mike@2stage.net;
- lmayer@town.arlington.ma.us;
- concomm@town.arlington.ma.us;
- chrystal.kornegay@masshousing.com;
- homeownership@masshousing.com;
- Charlie Foskett

Wed 9/7/2022 7:13 AM

pbw to MassHousing 9-5.docx

24 KB

☐

27 JASON STREET
ARLINGTON, MASSACHUSETTS 02476

TELEPHONE (781) 646-8303

PWORDEN@POST.HAVARD.EDU

September 6, 2022

Re: Testimony and Request Concerning Proposed 40B project at 1021 –
1025 Massachusetts Avenue

(Kindly include this letter with materials posted with the September 12 Select Board
agenda material)

Dear Ms. Kornegay,

Select Board Chair Diggins, and Members of the Select Board,

This letter and its attachment are a request for MassHousing to deny
project/site eligibility for a proposed 40B development at 1021-1025
Massachusetts Avenue on the basis of what appear to be gross inaccuracies
and dishonesty on the part of the developer and of Mr. Diggins' letter of
support for MassHousing to award project/site eligibility for the project.

It is important for our community to know that MassHousing is not willing to be used as an enabler for property owners/developers/political leaders to exploit communities at will. That exploitation in pursuit of lucrative residential development could destroy Arlington. It is exacerbating rampant residential real estate speculation destroying the environment, and our vigilant efforts to house the poor, to ensure sustainability and climate control, and opportunity to provide and protect essential businesses, jobs and services including in commercial condominiums (such as commercial condos at 22 Mill Street and 180 and 366 Massachusetts Avenue) which speculators eschew in favor of more lucrative residential development.

Arlington is already the twelfth most dense municipality in Massachusetts:

1. It has a plethora of multifamily buildings with naturally affordable rents.
2. It has for many decades ensured against homelessness in the community by generously supporting Arlington Housing Authority, various non-profits, and by very early adoption of Arlington's excellent Inclusionary Zoning Bylaw.

Following is a list of infractions in the project protocol materials:

- egregious violations of the Commonwealth's Smart Growth principles
- Confusing and uncorrected statement by MassHousing that the size of the site is 22.98 acres of land whereas in fact it is 1.08 acres
- Denial by the Applicant that the site contains a house designated as a landmark building
- Stealth and Secrecy/Absence of transparency and public information about project
- Absence of solicitation of comments from the local community
- Lack of information provided to local boards other than Conservation Commission and ARB whose support the Applicant has been attempting to ensure despite Arlington's designation as being in safe harbor from 40B at that time. No acquaintances of mine serving on other Town Boards were even made aware of the project.
- Disregard for Arlington's efforts for sustainable development.
- Possible conflicts of interest

Attached please find some background material for these infractions.

For Ms. Kornegay and MassHousing -I hope you will investigate these infractions fully. Please know that I have already described deficits in this project and protocol to Arlington Select Board who have not yet responded

https://drive.google.com/file/d/10_hRrsVpyvTm5t4pYN7ZW1vLkqygDtoX/view?usp=sharing

Kindly acknowledge receipt of this letter and refuse project/site approval because of the defects in the project.

Sincerely,

Patricia Barron Worden, Ph.D.

Former Chair, Arlington Housing Authority

Former Chair, Arlington School Committee

Member, Housing Plan Implementation Committee

Former Charter Member, Arlington Human Rights Commission

Member, Town Meeting, pct. 8

**27 JASON STREET
ARLINGTON, MASSACHUSETTS 02476**

**TELEPHONE (781) 646-8303
PWORDEN@POST.HAVARD.EDU**

October 16, 2022

Re: Testimony Opposing 40B Project a 1021-1025 Massachusetts Avenue (Please Include the attached letter of October 10 sent to MassHousing as part of this Testimony

Dear Chairman Klein and Members of the Board;

A major reason that this 40B application for award of a Comprehensive permit should be rejected is that MassHousing's Site Approval should be rescinded due to unacceptable procedural matters and lack of honesty. It is questionable that Arlington ZBA's Comprehensive Permit hearings can be legitimate in view of the problems of the Plan as follows:

- **In violation of legal requirements the Project has not been made known to the public.** Although required by law and requested by MassHousing in their letter of April 29, 2022 to Select Board (SB) Chair Diggins NO comment from any residents, committees or commissions was sought or provided except that of the Conservation Commission and Redevelopment Board. NO Project information or request for comment was made via the *Arlington Advocate* newspaper or by Select Board Chair Diggins (while officially representing the SB) at Arlington's Town Meeting with 252 members and its large television audience. Residents were deprived of knowledge of this Project and of the deadline for submission of comments.
- **The June 14 letter of Select Board (SB) Chair Diggins to MassHousing made an untruthful statement that the Project "is consistent with the goals and recommendations of the Arlington Master Plan, ... Open space and Recreation Plan, and the Mill Brook Corridor Report."** That is NOT the case as can be easily verified and is an outrageous statement concerning the hundreds of pages of these reports almost all of which are antithetical to the Project plan. Reading original source material clearly bears this out—e.g, Arlington's *Master Plan*: <https://www.arlingtonma.gov/departments/planning-community-development/master-plan>
- **The Applicant lied in the Site Information provided by denying that the Project involved a Landmark building.** There was no outreach by the developer/landowner to the Town, or to the Arlington Historical Commission or to the State authorities overseeing designated landmark buildings about the presence of and their intention to demolish this historic building at 1021 Massachusetts Avenue.

- **Responsible Climate parameters, laws and regulations of Arlington and Massachusetts for new construction are ignored.** The Project is not NetZero and its energy choices highly unacceptable.
- **Clear-cutting of 80 trees including a huge legacy Sycamore tree is irresponsible in view of climate change issues**
- **A letter from MassHousing to Select Board (SB) Chair Diggins described incorrectly the size of the site as being 22.98 acres. The site is actually 1.08 acres.** This erroneous statement remains on Arlington's website with no statement of correction

Details of the Project Plan and Notice of Intent (NOI) are outrageous attempts to ignore, among other things, Arlington's careful plans to mitigate climate change damage and follow its chosen path of Green Communities. This dreadful project has many aspects that will be detrimental to Arlington and will benefit only the developer/landowner's financial gain.

SITE CONSIDERATIONS

In an attempt to accommodate the building's massive footprint, the natural water storage ability of the site with its gradual slope and deep tree root penetration would be replaced by a totally artificial system requiring disruption of the ecosystem with clear cutting of trees and building of a forbidding 7 foot high retaining wall to accommodate water storage equipment. Tree loss would be huge including a magnificent Sycamore tree. Obviously the Project proponents chose to ignore warnings in Arlington's *Hazard Mitigation Report* of the danger to health of heat islands. This site would be transformed to a heat island if its trees are clear cut. (Described waste and rubbish on the site should be removed by the landowner whether or not a Project is built.) The site is currently part of a pristine section of Massachusetts Avenue containing several historic houses (one of which would be destroyed by demolition if a Comprehensive Permit is awarded) and several other Landmark structures close enough to be endangered by the massive clearing, earthworks and construction planned. These include the beautifully renovated First Baptist Meeting House (1790) and the Highland Fire Station.

LEC consultants of Wakefield, MA wrote the *Local Order of Conditions (Notice of Intent – NOI)* document and *Impact Analysis of the Natural and Built Environment* for the developer/landowner. They have listed many of the unfortunate actions planned for the site with rose colored descriptions that essentially try to put lipstick on this Pig of a Project but the Project remains a Pig.

Without any mention of the historic Landmark status of one of the buildings which the Project would demolish the NOI states "Comprehensive Permit application to demolish two (2) structures and construct a 50-unit, 5-story affordable housing condominium building with ... retail space." But it is legally dubious that Landmark buildings protected by the Commonwealth's listing can be destroyed at the whim of a developer. Also the Project is not an "affordable housing condominium building." Rather it is a market rate apartment building of 50 units 13 of which are barely "affordable" and ZERO units are affordable to very low income families –those most in danger of homelessness and for which Arlington has the greatest need. There is great need in Arlington for increasingly scarce houses like the two the

developer/landowner wishes to demolish. Arlington Housing Authority has need for these to house needy tenants who require some supportive services – such as at their very successful Donnelly House on Massachusetts Avenue. These houses could probably have provided affordable residence to a greater number of residents than the thirteen 40B planned units. It is sad to see these homes being used for speculative exploitation. Regarding the allegation of intention to have retail space the Project does not include building structures necessary for restaurants or even a coffee shop and provides no listing of prospective tenants. Essentially the building is a large apartment building masquerading as “Mixed Use.” Also stated in the NOI – “Portions of the proposed project are located within the outer portion of Riverfront Area associated with Mill Brook. Site grading, a retaining wall, erosion controls, invasive species management and native revegetation, meadow establishment, and storm water management are proposed.” However, there is nothing in the Project proposal which indicates or guarantees that the very intrusive and destabilizing landscape plan can be successful in the changed light and growth conditions planned. Nor is there any suggestion for plans for a fund to help occupants with assessments for repair or maintenance of the water management systems.

ENERGY AND CLIMATE SUSTAINABILITY CONSIDERATIONS

The Project opposes Arlington’s plans as a Green Community - established as such in 2010 - and its adoption of the Stretch Energy Code. This 40B Project is not Net Zero and will be detrimental to the Town’s energy efficiency goals. The loss of embedded energy in the destruction of the two houses would be very significant. The planned clear cutting of trees is detrimental to climate control. In 2020 the Clean Energy Future Committee (CEFC) supported a proposed bylaw that would, under certain circumstances prohibit fossil fuel infrastructure in new construction. This bylaw passed as part of Warrant Article 5 at the November 2020 Town Meeting. Warrant Article 5 also authorized a home rule petition and now must await is approval. But it is very clear that Arlington expects newly constructed projects to eschew the use of fossil fuel. The developer/landowner proposing his 40B Project need to come up with energy plans avoiding fossil fuels and a Project which is Net Zero. The CEFC’s mission is to guide the Town of Arlington to a future where, by 2050, net emissions of carbon dioxide and other greenhouse gases attributable to all sources in town are zero. Allowing Projects as inefficient and wasteful as the proposed 40B at 1021 Mass. Av. would make this goal impossible. Arlington would remain in the dark ages as regards its climate resiliency.

ARLINGTON'S PROBABLE SAFE HARBOR STATUS

To reach safe harbor protection from 40B Arlington would probably achieve the statutory requirement that 1.5% area of its relevant area as being affordable if the SB were to request the ARB/Planning Department to redefine areas with institutional buildings etc. as no longer being included in Residential District. More appropriately, as Winchester has done they should be included in a Special District – Conservancy-Institutional District.

WAIVER REQUESTS

The requests to reduce the:

Front Yard Setback: from 20ft -- to 11.8 ft

And Side Yard Setback: from 10 ft -- to 8.7 ft

should be **DENIED**. The building is massive and inconsistent with the Town's established concepts for the B2 District. These requested setback reductions would create discordance and possibly set very undesirable precedent.

The requests to increase the:

Maximum Height: from 35 ft or 3 stories -- to 61ft 8" or 5 stories

Maximum FAR: from .75 -- to 2

Should be **DENIED**

Arlington residents participating in the hundreds of hours of testimony for the Master Plan expressed approval for more mixed use buildings. However, their approval was for mixed use establishments like those of the Capitol Theater block or Arlington Center. In my experience (I attended all the Master Plan meetings) there was never any approval expressed by residents at any of the Master Plan meetings for nearly doubling or tripling the height and mass of such developments as these waiver requests essentially would do. (That suggestion could have been made by the consultant for the Master Plan who happens to be a 40B proponent and expert.)

The request for waivers for:

Tree Protection and Preservation (Title V; Article 16)

- Waiver of Tree Fund payment
- Comprehensive permit to include Tree Plan approval

Should be **DENIED**

These requests are outrageous and would be extremely detrimental to Arlington's admirable efforts to protect its tree canopy as strongly advised by many state and local documents such as Arlington's *Hazard Mitigation Report* and by Arlington's Tree Committee

.

The request for the:

Arlington Historical Commission • Regarding 1021 Massachusetts Avenue, a determination as part of the comprehensive permit that the demolition of the building would not be detrimental to the historical or architectural heritage or resources of the Town or in the alternative, waiver of the demolition delay.

Should be **DENIED**

Not only would it represent a loss to Arlington of a Landmark building, it unethically is requesting that the Commission would condone a lie in that it would wrongfully deny that the loss of the historic building certainly is detrimental to the historical or architectural heritage or resources of the Town

For these and other reasons I respectfully request that a Comprehensive Permit be denied for the 40B project at 1021-1025 Massachusetts Avenue.

Yours very truly,

Patricia B. Worden, Ph.D.
Former Chair, Arlington Housing Authority

Former Chair, Arlington School Committee

Member, Housing Plan Implementation Committee

Former Charter Member, Arlington Human Rights Commission

Member, Town Meeting, pct. 8

"I'm concerned about this project amounting to a giveaway to the rich. I feel that the amount of developer profit compared to the amount of affordable units created may be too high; though it is not as bad given the current revised estimates. In Arlington, the biggest limit on housing is the zoning restrictions on land. Upzoning an area, or granting a variance to allow such, amounts to a substantial increase in the value of the land. From what I can tell, allowing a property to build at a much higher density can nearly double the value of the land for a property. This amounts to millions of dollars in the case here, effectively being given to the developer. I believe affordable housing would be better served by granting only variances for structures that are much more focused on affordability. I fear that the inclusionary zoning plan mostly ends up allowing rich developers to make high end structures and include a few subsidized units; mostly making a pile of profit for themselves, while not advancing affordability much at all. It feels like it's more a political action which allows politicians to claim they're taking action on affordable housing without making the hard and often unpopular decisions involved in creating truly affordable housing."

I'm writing to support the 1021-1025 Mass Ave project and the expansion of denser housing options in general.

Housing must be the overriding issue for Massachusetts and Arlington. Dense housing on a major transit corridor will reduce car dependence and overall energy usage, which are major and direct contributors to climate change, income inequality, and poor health (pollution, sedentary transportation/lifestyle).

Framed thusly, trading 3 laughably unaffordable retail or residential units for 50 homes + retail seems like a complete no-brainer yes to me.

A couple of buildings up the street, there are retail spaces with zero setbacks already. Retaining ~12ft seems reasonable. To be blunt, it's 12ft more than Andrina's has.

Mass Ave is THE major corridor in Arlington. If we're going to have larger buildings, it's going to be there and we already do: Mass Ave is home to a number of tall apartment buildings. There is no precedent being set here.

The existing homes look historically unremarkable, energy inefficient, and are totally unaffordable regardless. There can only be a gain of affordable housing and general housing enabling a climate friendly lifestyle from this proposal.

Andrew Freeman
42 Kimball Rd

I am writing to raise my concerns about this proposed project.

The developer wishes to remove over 80 trees from two lots, including a sycamore tree that is 5 feet in diameter. This is an enormous loss of mature trees which sequester carbon and provide shade. The developer admits that he is unable to replace the trees with mature trees, so proposes to replace them with saplings and shrubs instead. Mature trees sequester much greater volumes of carbon than do saplings, and shrubs can't begin to make up for mature trees. It would take many years for newly-planted saplings to begin to achieve the same carbon sequestration, much less provide as much shade or simply be as beautiful as mature trees.

It is irresponsible to allow this destruction of tree canopy as we face a climate crisis. I urge the town to reject a Zoning Board of Appeals variance request related to destruction or removal of trees at this site. Such an exception creates a terrible precedent.

Cheryl Marceau

TO: The Zoning Board of Appeals and Select Board

FROM: Carl Wagner, Town Meeting Member, Precinct 15 - Edgehill Road

The 40B Project at 1021-1025 Mass Ave represents an overruling of local control, protections and laws. It would be bad for our climate resiliency and even bad for our affordability efforts. Waivers and favors beyond the 40B law requirements would be unfair to others in town and hurt our efforts to deal with our budget problems. I urge the Town to reject the requests of the developer to be given ADDITIONAL waivers, bonuses and treat as well as to deny the current project.

The developer asks to be exempt from the tree preservation bylaws which requires a Tree Plan and payment into the Trees Please Fund for trees removed. The developer cites lack of feasibility for his large project without removal of many trees and he does not want to pay the fees that every other developer or homeowner would have to pay in the same situation. Our trees are important -- their losses add to heat islands, which we are trying to fight, and hurt our ability to fight climate change. Losing these trees and not charging the developer is unfair to all others who play by the rules and unfair to our children and grandchildren. Who wants to cut down our Amazon forests? Who wants to enable the cutting down of forests? I ask you to give NOTHING more than the minimum required by state law to the developer, especially not when it would be unfair to others or hurt our town revenues- which face an enormous deficit soon.

Beyond the specific 40B project's illness, I'd like to remind you that large residential apartment units do not help affordability. It's true that they add housing supply, but we do not have a supply problem, we have a housing AFFORDABILITY problem.

New apartment buildings often don't even cover the cost of the public school costs of the residents in the taxes they pay to Arlington - to say nothing of other shared town services. A good example of this is the Brigham development by Shattucks Hardware. It pays less in total taxes to Arlington than just the cost of educating its residents in Arlington Public Schools! Even the actual rental rates in town are worsened by 40B projects themselves. They raise the average cost of housing, since 75% of the new units are at the highest market rates for the Boston area, while 25% are rented at 80% of area median income, which for a family of four would be a third of \$100,000, or about what our older existing apartments might rent for.

Arlington should seek to avoid further 40B projects, by following a path like Winchester Officials have done: by properly defining non-residential land out of the residential zoning, and thus reaching the 1.5% land area "safe harbor" exemption from 40B loss-of-control projects. Thinking positively about how we can help the affordability crisis in housing, we should work to enhance the efforts of the Housing Corporation of Arlington, the Arlington Housing Authority and we should remove the Kelleher Amendment to the Arlington Housing Trust, which changed its focus away those who are most in need, those below average median income.

For these reasons, I urge you to deny the Comprehensive Permit Application. For the Select Board and their employees in Town government, I urge you to work to meet the Safe Harbor so we may begin to improve actual affordability, instead of hurting it with 40B.

Thanks,
Carl Wagner
Edgehill Road

PS: Please record my comments in the record for this project.

TO: The Zoning Board of Appeals

FROM: Jo Anne Preston, Town Meeting member, Precinct 5

I request that you deny the 1021-1025 Mass. Ave. Comprehensive Permit Application. I find the applicant's proposal flawed for the following reasons:

- The developer asks to be exempt from the tree preservation bylaws which requires a Tree Plan and payment into the Trees Please Fund for trees removed. The developer cites lack of feasibility for his large project without removal of 80-100 trees (last count known to me) and he would be impoverished by paying into the tree fund.
- 1. The developer could build a smaller building without the removal of a large number of trees. The scope of the project is overly large and not in keeping with the needs to preserve the tree canopy which the town has supported for many years.
- 2. The developer has not presented any evidence of what he would make in profits and how it might not allow him to pay into the tree fund. Without the any numbers it would be impossible to give this claim any credence.
- The developer suggests that the majority of trees are non-native and thus implies that they need to be removed.
- 1. The state urges that everyone try to plant native species as they do better in our climate. Nowhere in their statutes and other materials do they ask that non-native trees be removed.
- 2. If by non-native the developer is referring to Norway Maples, which can be found in large numbers on our public streets in Arlington, they are, indeed, on the states prohibited plants and trees list. However, the state explicitly writes "that it does not affect existing plants and trees in the existing landscape. Only the importation, sale, propagation and related activities for the listed plants and trees are effected." In other words, the trees and plants on their list should not be removed but new ones should not be planted.
- The removal of such a large number of trees contradicts the town efforts to prevent and eliminate "hot spots." Hot spots are in areas in our town, which in the summer, register temperature considerably higher than the surrounding areas. Five years ago, BU scholars studied Arlington and found hot spots which coincided with a lack of trees. In 2020, Arlington received a grant to map the hot spots in our town. Again, they found them to have few trees. These data comport with national studies.
- 1. The area of development is not yet among the hottest areas in Arlington. However, with cutting down so many mature trees and constructing a very large

building in an area which is already warmer in the summer than many others, a hot spot is certain to develop.

2. Arlington has now received a large grant to address these heat islands. To create the conditions that will produce a heat island contradicts the efforts of the town to eliminate them. Town Manager, Sandy Pooler, promises that the town “will be moving into action, finding ways to cool the hottest parts of our region...” He wants “to thwart the quiet natural disaster of extreme heat.” To cut down a large number of mature trees, which scientist have found cause pockets of extreme heat in built up areas, negates the purposes of this grant and the town commitment to it.
3. Extreme heat islands do not just make residents uncomfortable, they also threaten their health and even their lives. As the Massachusetts Municipal Vulnerability Preparedness Program reminds us: “Although hurricanes and wildfires get more attention, summer heat waves actually harm and kill people.”

For these reasons and many more, I urge you to deny the Comprehensive Permit Application.